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|-----------------|-------------|----------------------|---------------------|
| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. |
| 09/525,201      | 03/17/00    | SAEKI                | M P353-9049         |

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MMC2/0727

EXAMINER

TIBBITS, P

|          |              |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
|----------|--------------|

2838

DATE MAILED:

07/27/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

|                              |                               |                              |
|------------------------------|-------------------------------|------------------------------|
| <b>Office Action Summary</b> | Application No.<br>09/528,201 | Applicant(s)<br>Saeki et al. |
|                              | Examiner<br>Pla Tibbits       | Art Unit<br>2838             |



*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1)  Responsive to communication(s) filed on May 30, 2001

2a)  This action is FINAL.      2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle* 1035 C.D. 11; 453 O.G. 213.

#### Disposition of Claims

4)  Claim(s) 1-36 is/are pending in the applica

4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from considera

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-36 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claims 1-36 are subject to restriction and/or election requirem

#### Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

11)  The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b)disapproved.

12)  The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. § 119

13)  Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a) All b) Some\* c) None of:

1.  Certified copies of the priority documents have been received.

2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

14)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

#### Attachment(s)

15)  Notice of References Cited (PTO-892)

18)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_

16)  Notice of Draftsperson's Patent Drawing Review (PTO-948)

19)  Notice of Informal Patent Application (PTO-152)

17)  Information Disclosure Statement(s) (PTO-1449) Paper No(s). 7

20)  Other:

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## DETAILED ACTION

This Office action is in answer to the RCE and IDS filed May 30,2001.

### ***Election/Restriction***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-5 are drawn to a method for protecting battery cells from overdischarging, classified in class 320, subclass 135.
  - II. Claims 6-20 are drawn to a control circuit controlled in accordance with the voltage of each of the battery cells, classified in class 320, subclass 127.
  - III. Claims 21-35 are drawn to a battery unit for supplying power to a load, classified in class 307, subclass 130.
  - IV. Claim 36 is drawn to a control circuit in a protection circuit for a device having a discharge control switch, classified in class 320, subclass 149.
2. The inventions are distinct, each from the other because of the following reasons: inventions I, II, III and IV are unrelated due to their different mode of operation, particularly since inventions II, III and IV are drawn to an apparatus controlling the voltage of the battery cells, to a battery unit for supplying power to a load, and to a control circuit in a protection circuit for a device having a discharge control switch, respectively, while invention I is drawn to method for protecting battery cells from overdischarging. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01).
3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

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4. A telephone call was made to Mr. Charles Marmelstein at 202/857-6000 on July 20, 2001, but they did not result in an election being made.
5. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).
6. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(I).

***Information Disclosure Statement***

7. The Information Disclosure Statement (Form PTO-1449) filed May 30, 2001 references two foreign patents described only by abstracts. Since these references seem to be relevant to applicant's instant application, a full translation should be provided.

***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Pia Tibbits whose telephone number is (703) 308-7305. If unavailable, contact the Supervisory Patent Examiner Peter Wong whose telephone number is (703) 305-3477.
9. Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center receptionist whose telephone number is (703) 308-0956.

Papers related to Technology Center 2800 applications **only** may be submitted to Technology Center 2800 by facsimile transmission. Any transmission not to be considered an official response must be

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clearly marked "DRAFT". The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The Technology Center Fax Center number is (703) 308-7722 or (703) 308-7724.

PFT

July 26, 2001



Peter S. Wong  
Supervisory Patent Examiner  
Technology Center 2838